

SERVICE DATE – JUNE 26, 2008

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-1017X

WEST SHORE RAILROAD CORPORATION—ABANDONMENT EXEMPTION—IN UNION  
AND NORTHUMBERLAND COUNTIES, PA

Decided: June 25, 2008

West Shore Railroad Corporation (West Shore) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a line of railroad known as the Mifflinburg Branch, extending from milepost 0.0 at Montandon, in Northumberland County, PA, and extending in a generally westerly direction, crossing the West Branch of the Susquehanna River through Lewisburg to the Borough of Mifflinburg, ending at milepost 11.8 in Union County, PA. Notice of the exemption was served and published in the Federal Register on April 21, 2008 (73 FR 21406-07).<sup>1</sup> On April 24, 2008, Lewisburg Area Recreation Authority (LARA) filed a request for the issuance of a notice of interim trail use (NITU) and for a public use condition. The exemption was scheduled to become effective on May 21, 2008, unless stayed by the Board or a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) was filed by May 1, 2008.

On April 30, 2008, the Mifflinburg Rail Company (MRC) filed a formal expression of intent to file an OFA to purchase West Shore's line proposed for abandonment, or portions thereof. This filing automatically stayed the effective date of the exemption for 10 days. In the filing, MRC not only asked the railroad for the information specified in the Board's rules, but for significant other information as well. MRC further requested that the Board toll for 60 days the initial due date for the filing of its OFA to give it adequate time to analyze the information provided by West Shore. On May 15, 2008, MRC filed a request that the Board toll the deadline for it to file its OFA until after LARA had had an opportunity to acquire the line for interim trail use.

By decision served on May 20, 2008 (May 20 Decision), the Board directed West Shore to provide MRC with information contained in the Board's rules at 49 CFR 1152.27(a) to enable MRC to file an OFA, tolled the time period for MRC to file an OFA until 10 days after West Shore notified the Board in writing that it had provided MRC with that information, and

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<sup>1</sup> The notice also embraced STB Docket No. AB-1018X, Union County Industrial Railroad Company—Discontinuance of Service Exemption—in Union County, PA, in which Union County Industrial Railroad Company sought an exemption to discontinue service in Union County, PA, between Lewisburg and Mifflinburg.

postponed the effective date of the exemption until 10 days after the due date for the filing of an OFA. The May 20 Decision also denied MRC's other requests, imposed four environmental conditions, and held the trail use and public use requests in abeyance pending completion of the OFA process.<sup>2</sup>

By letter filed on May 28, 2008, MRC now seeks permission to withdraw its notice of intent to file an OFA. By letter filed on June 3, 2008, West Shore asks that the Board grant MRC's withdrawal request and issue a NITU in this proceeding. The withdrawal request will be granted. Accordingly, the financial assistance process prescribed in the May 20 Decision will be terminated. Also, as indicated in the May 20 Decision, if the OFA process terminated without a sale, the Board would issue a decision and notice effective on its service date imposing interim trail use and a public use condition. Accordingly, a NITU will now be issued and a public use condition will be imposed.

This decision and notice will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The request for permission to withdraw the notice of intent to file an OFA is granted and the financial assistance process in this proceeding is terminated.
3. Upon reconsideration, the notice served and published in the Federal Register on April 21, 2008, exempting the abandonment of the line described above, is subject to the condition that West Shore shall leave intact all of the right-of-way, including bridges, trestles, and culverts (except track, ties, and signal equipment) for a period of 180 days from the effective date of this decision and notice to enable any state or local government agency or any other interested person to negotiate the acquisition of the line for public use, and is modified to the extent necessary to implement interim trail use/rail banking as set forth below, for a period of 180 days commencing from the service date of this decision and notice.
4. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which

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<sup>2</sup> The Board concluded at that time, that LARA had satisfied the requirements for both public use and trail use, but noted that, because an OFA takes priority over such requests, the OFA process had to be completed before public use and trail use conditions could be issued and become effective.

case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way.

5. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

6. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

7. If an agreement for interim trail use/rail banking is reached by the 180th day after the service date of this decision and notice (December 23, 2008), interim trail use may be implemented. If no agreement is reached by that time, West Shore may fully abandon the line.

8. West Shore's exemption will become effective on the service date of this decision and notice.

9. This decision and notice will be effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary